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Security Council

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Report of the Secretary-General pursuant to paragraph 6 of Security Council resolution 1329 (2000)

1. By paragraph 6 of resolution 1329 (2000) of 30 November 2000, the Security Council requested the Secretary-General to submit to the Council, as soon as possible, a report containing an assessment and proposals regarding the date ending the temporal jurisdiction of the International Tribunal for the Former Yugoslavia.

2. The present report is submitted pursuant to that request.

3. By paragraph 1 of resolution 808 (1993) of 22 February 1993, the Security Council decided that an international tribunal should be established for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991.

4. By paragraph 2 of that same resolution, the Security Council requested the Secretary-General to submit for its consideration a report on all aspects of that matter, including specific proposals and, where appropriate, options for the effective and expeditious implementation of that decision.

5. In the report that he submitted pursuant to that request (S/25704 and Add.1), the Secretary-General noted that paragraph 1 of Security Council resolution 808 (1993) extended the temporal jurisdiction of the International Tribunal that the Council had decided was to be established, to serious violations of international humanitarian law committed in the territory of the former Yugoslavia "since 1991" (S/25704, annex, para. 62).

6. The Secretary-General observed that he understood this to mean any time on or after 1 January 1991. He did not, however, make any observation in his report regarding the terminal date (dies ad quem) of the temporal jurisdiction of the International Tribunal. The article relating to the territorial and temporal jurisdiction of the International Tribunal that the Secretary-General proposed for inclusion in the future Tribunal's statute accordingly did not specify any terminal date for the Tribunal's temporal jurisdiction.

7. Having considered the report of the Secretary-General, the Security Council decided, in paragraph 2 of its resolution 827 (1993) of 25 May 1993, to establish an international tribunal for the sole purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia between 1 January 1991 and a date to be determined by the Council upon the restoration of peace and, to that end, to adopt the statute of the International Tribunal that was annexed to the Secretary-General's report.

8. Article 8 of the statute of the International Tribunal for the Former Yugoslavia provides, in relevant part, that "(t)he temporal jurisdiction of the International Tribunal shall extend to a period beginning on 1 January 1991".

9. The Tribunal's statute therefore does not specify any terminal date for its temporal jurisdiction; nor does it contain any provision as a result of which that terminal date might be determined or otherwise become definite.

10. In accordance with the decision of the Security Council contained in paragraph 2 of its resolution 827 (1993), that date was left for subsequent determination by the Council "upon the restoration of peace".

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11. The Security Council has, to date, not made any such determination.

12. It is apparent, moreover, from the subsequent decisions of the Security Council relating to the conflicts in the former Yugoslavia, that the Council does not consider peace to have been restored in the region.

13. Thus, the Security Council has made repeated determinations in its resolutions relating to the situation in Bosnia and Herzegovina that "the situation in the region continues to constitute a threat to international peace and security". The most recent determination by the Council to this effect is contained in its resolution 1305 (2000) of 21 June 2000.

14. In its resolutions concerning the situation in Kosovo, the Security Council has also made determinations that the situation in the region constitutes a threat to international peace and security. The most recent determination of the Council to this effect is contained in its resolution 1244 (1999) of 10 June 1999.

15. In view of these repeated determinations by the Security Council that the situation in the region of the former Yugoslavia constitutes a threat to international peace and security, the Secretary-General considers that he is not in a position to make an assessment to the effect that peace has been restored in the former Yugoslavia.

16. He is accordingly not in a position to recommend to the Security Council a date that the Council might, pursuant to its decision in paragraph 2 of resolution 827 (1993), determine to be the terminal date of the temporal jurisdiction of the International Tribunal for the Former Yugoslavia.